

Below is an opinion of the court.


TRISH M. BROWN
U.S. Bankruptcy Judge

NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In Re:

MICHELLE ANNE BARON,

Debtor.

Bankruptcy Case
No. 18-32159-tmb7

MICHELLE ANNE BARON,

Plaintiff,

Adv. Proc. No. 19-3118-tmb

MEMORANDUM OPINION¹

v.
GRETCHEN PAN, an individual and as successor
in interest to the Elizabeth Steiner Trust, and
XIANGHUA “ED” PAN, an individual,

Defendants.

This matter came before the court on a Motion to Dismiss Adversary Proceeding (the “Motion,” ECF No. 3) filed by Defendants in the above-captioned proceeding. Debtor failed to respond to the Motion. The complaint filed by Debtor alleges that Defendants violated the automatic stay by seeking and enforcing a default judgment against Tracey Baron, RenX Group,

¹ This disposition is specific to this case and is not intended for publication or to have a controlling effect on other cases. It may, however, be cited for whatever persuasive value it may have.

LLC, and Turning Leaf Homes, LLC. Complaint (ECF No. 1) ¶¶ 18-23, 30. The lawsuit from which the Debtor's claims arise (the "Clackamas County Litigation") is against Debtor's husband and several LLCs in which Debtor claims to hold a membership interest. *See* Decl. of Troy G. Sexton (ECF No. 4). Debtor is not a party to the Clackamas County Litigation.

Debtor alleges that the Defendants have violated 11 U.S.C. § 362(a)(1), (2), (3), (4), (5), and (6). These claims are completely without merit. Section 362(a)(1) prohibits "the commencement or continuation . . . of a judicial . . . action or proceeding *against the debtor*" (emphasis added). Debtor is not a named defendant in the Clackamas County Litigation, therefore the entry of a judgment did not violate the automatic stay.

Sections 362(a)(2) through (5) prohibit various actions against property of the estate. Here, Debtor alleges that she holds membership interests in the LLCs that are defendants in the Clackamas County Litigation. The complaint contains absolutely no allegations that Defendants have attempted to enforce the judgement against Debtor's membership interests (in fact, such enforcement action is a legal impossibility, since Debtor is not a party to the Clackamas County Litigation and thus is not a judgment debtor). It has been settled law in this district since at least 1994 that the automatic stay "protects only the debtor, property of the debtor or property of the estate. It does not protect non-debtor parties or their property. Thus, section 362(a) does not stay actions against guarantors, sureties, corporate affiliates, or other non-debtor parties liable on the debts of the debtor." *Chugach Timber Corp. v. Northern Stevedoring & Handling Corp. (In re Chugach Forest Prods.)*, 23 F.3d 241, 246 (9th Cir. 1994) (*quoting Advanced Ribbons & Office Prods. v. U.S. Interstate Distrib. (In re Advanced Ribbons & Office Prods.)*, 125 B.R. 259, 263 (9th Cir. BAP 1991)). Thus, to the extent that Debtor argues that Defendants' collection activities violate the automatic stay because such actions indirectly impact the value of her membership interests, that argument fails under clearly established law regarding the scope of the automatic stay.

Finally, § 362(a)(6) prohibits "any act to collect, assess, or recover a claim *against the debtor* that arose before the commencement of the [bankruptcy] case" (emphasis added). Again,

as a matter of basic logic, the Clackamas County Litigation cannot violate § 362(a)(6) because Debtor is not a party and therefore no claims have been asserted against her in that proceeding.

Because Debtor has not alleged any facts that would support a claim for violation of the automatic stay, the Motion must be granted. Counsel for Defendants should submit an order granting the Motion no later than January 15, 2020. The clerk's office is directed to terminate the hearing currently set for January 22, 2020.

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cc: Troy Sexton
Lawrence Castle